

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEVADA**

RICKIE SLAUGHTER,	)	3:16-cv-00457-MMD-WGC
	)	
Plaintiff,	)	<b><u>MINUTES OF THE COURT</u></b>
	)	
vs.	)	November 13, 2017
	)	
ESCAMILLA, <i>et al.</i> ,	)	
	)	
Defendants.	)	
_____	)	

PRESENT: THE HONORABLE WILLIAM G. COBB, U.S. MAGISTRATE JUDGE

DEPUTY CLERK: KATIE LYNN OGDEN REPORTER: NONE APPEARING

COUNSEL FOR PLAINTIFF(S): NONE APPEARING

COUNSEL FOR DEFENDANT(S): NONE APPEARING

**MINUTE ORDER IN CHAMBERS:**

Before the court is Plaintiff's Motion to Deem the Factual Paragraphs within Plaintiff's First Supplemental and Amended Civil Rights Complaint as Admitted (ECF No. 24). Plaintiff requests the court to deem paragraphs 1-16 under Count III in Plaintiff's Amended Complaint as admitted because "Defendants failed to respond to these factual paragraphs in their Answer." (*Id.* at 2.) Defendants have opposed Plaintiff's motion stating "Defendants have filed an Amended Answer to Plaintiff's Supplemental and Civil Rights Complaint. In the Amended Answer, Defendants respond to and deny Count III of the Amended Complaint." (ECF No. 28.)

On October 31, 2017, this court denied as moot Plaintiff's motion that this court screen new Count III. (ECF No. 27.) This court determined that because Defendants had previously filed an Amended Answer to Plaintiff's Amended Complaint (ECF No. 25), Plaintiff's motion for screening and compelling Defendants to answer Count III (ECF No. 23) was moot. (ECF No. 27.) Fed. R. Civ. P. 15(a) allows a party to amend its pleading if filed within 21 days after service of the original pleading. Rule 15(a)(1)(A). The Defendants' original answer was filed on October 5, 2017. (ECF No. 20.) The Defendants' Amended Answer was filed on October 30, 2017. (ECF No. 25.) Thus, it appears Defendants should technically have either sought consent of the Plaintiff or leave of court to file the Amended Answer. Rule 15(a)(2).

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Assuming that Plaintiff would not have consented, had Defendants sought leave of court, Rule 15(a)(2) states the court “should *freely* give leave when justice so requires.” (emphasis added)

Inasmuch as the court has previously denied Plaintiff's motion (ECF No. 23) to compel Defendants to answer Count III, and inasmuch as Defendants have filed their Amended Answer to Plaintiff's Amended Complaint (ECF No. 25), Plaintiff's Motion to Deem the Factual Paragraphs within Plaintiff's First Supplemental and Amended Civil Rights Complaint as Admitted (ECF No. 24) is **DENIED** as moot.

**IT IS SO ORDERED.**

DEBRA K. KEMPI, CLERK

By: \_\_\_\_\_ /s/  
Deputy Clerk